

Forty-ninth Legislature
First Regular Session

COMMITTEE ON COMMERCE

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2304

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 44-302, Arizona Revised Statutes, is amended to
3 read:

4 **44-302. Presumptions of abandonment**

5 A. Property is presumed abandoned if it is unclaimed by the apparent
6 owner according to the following schedule:

7 1. A traveler's check is presumed abandoned fifteen years after
8 issuance.

9 2. A money order or similar written instrument, other than a third
10 party bank check, is presumed abandoned seven years after issuance.

11 3. Any stock or other equity interest in a business association or
12 financial organization, including a security entitlement under title 47,
13 chapter 8, is presumed abandoned three years after any of the following,
14 whichever occurs first:

15 (a) The date of the most recent dividend, stock split or other
16 distribution that is unclaimed by the apparent owner.

17 (b) The date of the second mailing of a statement of account or other
18 notification or communication that was returned as undeliverable.

19 (c) The date the holder discontinued mailings, notifications or
20 communications to the apparent owner.

21 4. The principal on debt, other than a bearer bond or an original
22 issue discount bond, of a business association or financial organization is
23 presumed abandoned three years after the maturity date and the interest on
24 the debt is presumed abandoned three years after the payment date.

25 5. A demand, savings or time deposit, including a deposit that is
26 automatically renewable, and any interest or dividends are presumed abandoned
27 five years after maturity or the date of the last indication by the owner of
28 interest in the property, whichever occurs first. For the purposes of this

1 paragraph, a deposit that is automatically renewable is deemed matured on its
2 initial date of maturity, unless the owner has consented to a renewal at or
3 about the time of the renewal and the consent is in writing or is evidenced
4 by any memorandum or other record on file with the holder.

5 6. Credits owed to a customer as a result of a retail business
6 transaction are presumed abandoned five years after the obligation accrued.

7 7. An amount owed by an insurance company on a life or endowment
8 insurance policy or an annuity that has matured or terminated is presumed
9 abandoned five years after the obligation to pay arose or, in the case of a
10 policy or annuity that is payable on proof of death, the amount is presumed
11 abandoned two years after the insured has attained, or would have attained if
12 the insured were living, the limiting age under the mortality table on which
13 the reserve is based. For the purposes of this paragraph, all of the
14 following conditions apply:

15 (a) If a person other than the insured or annuitant is entitled to the
16 owed amount and the person's address is not known to the company or it is not
17 definite and certain from the records of the company who is entitled to the
18 amount, it is presumed that the last known address of the person who is
19 entitled to the amount is the same as the last known address of the insured
20 or annuitant according to the company's records.

21 (b) Notwithstanding any law, if the company learns of the death of the
22 insured or annuitant and the beneficiary has not communicated with the
23 insurer within four months after the death, the company shall take reasonable
24 steps to pay the proceeds to the beneficiary.

25 (c) Every change of beneficiary form issued by an insurance company
26 under any life or endowment insurance policy or annuity contract to an
27 insured or owner who is a resident of this state shall request the following
28 information:

29 (i) The name of each beneficiary, or if a class of beneficiaries is
30 named, the name of each current beneficiary in the class.

31 (ii) The address of each beneficiary.

32 (iii) The relationship of each beneficiary to the insured.

1 8. A life or endowment insurance policy or annuity contract not
2 matured by actual proof of the death of the insured or annuitant according to
3 the company's records is deemed matured and the proceeds are deemed due and
4 payable and are presumed abandoned after two years if all of the following
5 conditions apply:

6 (a) The insured has attained, or would have attained if the insured
7 were living, the limiting age under the mortality table on which the reserve
8 is based.

9 (b) The policy was in force at the time the insured attained or would
10 have attained the limiting age specified in subdivision (a) of this
11 paragraph.

12 (c) Neither the insured nor any other person who appears to have an
13 interest in the policy within the last two years according to the company's
14 records has assigned, readjusted or paid premiums on the policy or subjected
15 the policy to a loan, corresponded in writing with the company concerning the
16 policy or otherwise indicated an interest as evidenced by a memorandum or any
17 other record on file with and prepared by an employee of the company.

18 9. Property that is distributable by a business association or
19 financial organization in a course of dissolution is presumed abandoned one
20 year after the property becomes distributable.

21 10. Property that is received by a court as proceeds of a class action
22 and that is not distributed pursuant to the judgment is presumed abandoned
23 one year after the distribution date.

24 11. Property that is held by a court, government or governmental
25 subdivision, agency or instrumentality, except for support as defined in
26 section 25-500 or for spousal maintenance, is presumed abandoned three years
27 after the property becomes distributable. Monies held for the payment of
28 warrants by a state agency that remain unclaimed by the owner at the time of
29 the void date printed on the face of the warrant are presumed abandoned. For
30 the purposes of this paragraph, governmental subdivision does not include a
31 special taxing district as defined in section 48-241.

1 12. Wages or other compensation for personal services is presumed
2 abandoned one year after the compensation becomes payable.

3 13. Property in any individual retirement account, defined benefit plan
4 or other account or plan that qualifies for tax deferral under the income tax
5 laws of the United States is presumed abandoned three years after any of the
6 following, whichever occurs first:

7 (a) The date of the distribution or attempted distribution of the
8 property.

9 (b) The date of the required distribution as stated in the plan or
10 trust agreement that governs the plan.

11 (c) If determinable by the holder, the date specified in the income
12 tax laws of the United States by which distribution of the property must
13 begin in order to avoid a tax penalty.

14 14. Any amount that is payable on a check, draft or similar instrument
15 on which a financial organization or business association is directly liable,
16 including a cashier's check and a certified check, and that has been
17 outstanding for more than five years after the check, draft or similar
18 instrument was payable or after issuance if payable on demand is presumed
19 abandoned unless within five years the owner has communicated in writing with
20 the financial organization or business association concerning the check,
21 draft or similar instrument or otherwise indicated an interest as evidenced
22 by a memorandum or any other record on file and prepared by an employee of
23 the financial organization or business association.

24 15. All other property is presumed abandoned five years after the
25 owner's rights to demand the property or after the obligation to pay or
26 distribute the property arises, whichever occurs first.

27 16. Excess proceeds deposited with the county treasurer pursuant to
28 section 33-812 are presumed abandoned if the monies remain with the treasurer
29 for at least three years from the date of deposit and there is no pending
30 application for distribution.

31 17. Any dividend, profit, distribution, interest, redemption, payment
32 on principal or other sum held or owing by a business association for or to

1 its shareholder, certificate holder, member, bondholder or other security
2 holder who has not claimed it, or corresponded in writing with the business
3 association concerning it, is presumed abandoned three years after the date
4 prescribed for payment or delivery.

5 18. ANY DOLLAR AMOUNT ON A RETAIL GIFT CARD THAT IS NOT USED BY THE
6 GIFT CARD'S EXPIRATION DATE IS PRESUMED ABANDONED ON THE EXPIRATION DATE.

7 B. At the time that an interest is presumed abandoned under subsection
8 A of this section, any other property right accrued or accruing to the owner
9 as a result of the interest, and not previously presumed abandoned, is also
10 presumed abandoned.

11 C. Property is unclaimed if, for the applicable period prescribed in
12 subsection A of this section, the apparent owner has not communicated in
13 writing with the holder or communicated by other means reflected in a
14 contemporaneous record that is prepared by or on behalf of the holder and
15 that concerns the property or the account or accounts in which the property
16 is held and has not otherwise indicated an interest in the property and if
17 the holder has not communicated in writing with regard to the property that
18 would otherwise be unclaimed. A communication with an owner by a person
19 other than the holder or the holder's representative who has not identified
20 the property in writing to the owner is not an indication of interest in the
21 property by the owner.

22 D. An indication of an owner's interest in property includes:

23 1. The presentment of any check or other instrument of payment of any
24 dividend or other distribution that is made with respect to any account,
25 underlying stock or other interest in a business association or financial
26 organization. If the distribution is made by electronic or similar means, an
27 indication of an owner's interest includes evidence that the distribution has
28 been received.

29 2. Activity directed by the owner in the account in which the property
30 is held, including a direction by the owner to increase, decrease or change
31 the amount or type of property held in the account.

32 3. The making of a deposit to or withdrawal from a bank account.

1 4. The payment of a premium with respect to a property interest in an
2 insurance policy. The application of an automatic premium loan provision or
3 any other nonforfeiture provision in an insurance policy does not prevent a
4 policy from maturing or terminating if the insured has died or if the insured
5 or the beneficiary of the policy has otherwise become entitled to the
6 proceeds before the depletion of the cash surrender value of a policy by the
7 application of those provisions.

8 E. Property is payable or distributable notwithstanding the owner's
9 failure to make demand or present an instrument or document otherwise
10 required to obtain payment.

11 Sec. 2. Title 44, chapter 3, article 1, Arizona Revised Statutes, is
12 amended by adding section 44-340, to read:

13 44-340. Distribution of gift card monies

14 PROPERTY FROM AN EXPIRED GIFT CARD THAT IS PRESUMED ABANDONED PURSUANT
15 TO SECTION 44-302 SHALL BE DISTRIBUTED THREE YEARS AFTER IT IS PRESUMED
16 ABANDONED AS FOLLOWS:

17 1. THE FIRST TWENTY-FIVE DOLLARS TO THE ISSUER IF THE ISSUER HAS
18 EMPLOYEES, AN OFFICE OR A RETAIL PLACE OF BUSINESS LOCATED IN THIS STATE.

19 2. THE REMAINING MONIES TO THE STATE GENERAL FUND."

20 Amend title to conform

and, as so amended, it do pass

MICHELE REAGAN
Chairman

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